

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT KNOXVILLE

JAMES T. HAIRSTON,

Plaintiff,

v.

No.: 3:13-cv-735-HSM-HBG

JAMES BERRONG, et al.,

Defendants.

**MEMORANDUM AND ORDER**

This is a *pro se* prisoner's civil rights complaint under 42 U.S.C. § 1983. Plaintiff submitted an application to proceed *in forma pauperis* and the court allowed plaintiff to proceed without prepayment of costs or fees. It has now come to the court's attention that plaintiff is subject to the "three-strike" rule.

Pursuant to the Prison Litigation Reform Act of 1996 (PLRA), a prisoner cannot bring a new civil action or appeal a judgment in a civil action *in forma pauperis* if he or she has, three or more times in the past, while incarcerated, brought a civil action or appeal in federal court that was dismissed because it was frivolous, malicious, or failed to state a claim upon which relief may be granted. The only exception is if the prisoner is in "imminent danger of serious physical injury." 28 U.S.C. §1915(g).

While incarcerated, plaintiff has had at least three prior civil rights actions dismissed as frivolous. *See, e.g., Hairston v. Easley*, Civil Action No. 5:02-ct-828-H (E.D.N.C. Dec. 11, 2002) (Order dismissing case under the three-dismissal rule and noting that plaintiff has had at least three prior lawsuits dismissed as frivolous); *Hairston v. Hill*, Civil Action No. 5:00-ct-683-H (E.D.N.C. Aug. 28, 2001) (same). Plaintiff does not allege in this action that he is in imminent danger of serious bodily harm from the defendants.

Thus, in order to file this action, plaintiff must prepay the entire \$400.00 filing fee. Plaintiff's pauper status is **REVOKED** and leave to proceed *in forma pauperis* is **DENIED**. Plaintiff shall have thirty (30) days from the date of this Memorandum and Order to pay the full filing fee. If plaintiff fails to pay the full filing fee, his complaint will be dismissed without prejudice pursuant to the three-strike rule of 28 U.S.C. § 1915(g).

**E N T E R :**

/s/Harry S. Mattice, Jr.  
HARRY S. MATTICE, JR.  
UNITED STATES DISTRICT JUDGE